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ROUTING AND RECORD SHEET

1473

SUBJECT: (Optional)

Agency Policy with Respect to MKULTRA-Related Queries Concerning Institutional

OLC #78-47377

FROM:

Anthony A. Lapham  
General Counsel

EXTENSION

NO.

OGC 78-2441

Involvement

STAT

DATE

17 April 1978

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S  
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Acting Legislative  
Counsel

Lyle:

STAT

2.

In connection with your  
12 April memo concerning MKULTRA-  
related inquiries, [redacted]

3.

has prepared the attached, with  
which I agree. It is true that our  
present policy is a bit awkward,  
but I do not see how we can modify  
it as you propose without abandon-  
ing it altogether.

4.

5.

6.

7.

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10.

11.

12.

13.

14.

15.

[Signature Box]

Tony Lapham

STAT

17 April 1978

78-1473/1

MEMORANDUM FOR: Anthony A. Lapham

FROM :

[REDACTED]

SUBJECT :

Agency Policy with Respect to MKULTRA-Related  
Queries Concerning Institutional Involvement

REFERENCE :

OLC Memo dated 12 April 1978, Same Subject

1. The Office of Legislative Counsel has suggested a rethinking of the Agency policy of neither confirming nor denying the involvement in CIA-sponsored drug testing of particular institutions in response to Freedom of Information Act and congressional inquiries. That policy is not solely a creation of this Office, but is derived from the Agency's general policies regarding information concerning employment and other relationships and from the Director's position, as stated to the Senate Select Committee on Intelligence and the Senate Human Resources Subcommittee on Health and Scientific Research on 3 August 1977, that the Agency has "a moral obligation to the researchers and institutions to protect them from any unjustified embarrassment or damage to their reputations which revelation of their identities might bring." Given these general and specific bases for protecting the institutions which were in fact involved, I see no alternative but to continue to hew consistently to the present format for responses of this nature.

2. A total of 84 institutions, both academic and nonacademic, were notified of their involvement in September 1977. In November 1977, in order to determine which institutions had publicly acknowledged their involvement or otherwise desired no further confidentiality, we wrote to each and requested its views on the question of public disclosure of its identity. A follow-up letter renewing this request was sent in March 1978, to those which had not yet responded. Since the ultimate determination is the Agency's to make, that letter informed the remaining institutions that we would assume a desire for continued protection unless a response to the contrary was received by 15 April 1978. A total of 41 institutions have informed us of no objection on their part to disclosure, 28 have objected to disclosure, and 15 have not responded. The end result is that we shall acknowledge involvement of 41 institutions, while continuing to protect 43.

3. To begin now to inform requesters, congressional or otherwise, that institutions of interest to them were not involved would make farcical the Agency's efforts to protect these institutions. By way of example, were OLC to send its proposed response to Senator Gravel informing him that the University of Montana was not involved, the response to a follow-on request concerning Montana State College would, except for that institution's lack of objection, have to be a "neither confirm nor deny" letter. The obvious conclusion to be drawn from the two letters, one positive and one waffling, would be that the State College was involved. The point or the manner of applying the case-by-case approach suggested to replace the Agency's current policy is not clear. If a requester should ask for this information concerning each academic institution in a particular state, only one of which was involved, would we answer no to the others and "neither confirm nor deny" the one? What if the requester resorted to a series of letters, each concerning a particular school, rather than a single list? The fact that Senator Gravel does not represent Montana illustrates these requests are not limited geographically to the state of residency. Thus, what would be the response to a state by state canvas? Would we answer negatively to all states without an involved institution, but "neither confirm nor deny" as to any state in which even a single institution was involved? Under what circumstances would we ever do anything other than confirm no involvement and neither confirm nor deny when there was involvement? And given no such circumstances why play this game at all and not merely confirm involvement?

4. It is to be noted that the suggested response to Senator Gravel itself recognizes the validity of the principles upon which "glomarization" is based, and illustrates the difficulties of the alternative approach, since it refuses to confirm or deny the use of the Victorian Hotel in San Francisco as an Agency safehouse, presumably in the context of suspected unwitting drug testing there. Juxtaposed with the negative response as to the University of Montana, the clear implication is that the hotel was indeed used by CIA. I have discussed this matter with Ernie Mayerfeld who agrees the current policy should remain unchanged.



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